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09/853,703	05/14/2001	John Muraca	1503.1002	6536

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EXAMINER

BLECK, CAROLYN M

ART UNIT PAPER NUMBER

3626

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/853,703

**Applicant(s)**

MURACA, JOHN

**Examiner**

Carolyn M. Bleck

**Art Unit**

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the amendment filed on 24 February 2006. Claims 1-42 are pending. Claims 1-3 and 5-13 have been amended. Claims 15-42 are newly added.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8, 22, and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) Claims 8, 22, and 36 recite "the database field location comprising top X Y coordinates, a location at which the database field will be displayed on a graphic image when the medical records system is executed." It is unclear what "a location at which the database field will be displayed on a graphic image" means within the claims. For example, it is unclear if the database field is displayed on the graphic image or if the X Y coordinates are used to determine where to display the image. Appropriate clarification is requested.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Evans (5,924,074).

(A) As per claim 2, Evans discloses a graphical user interface running on a point of care system, such as wherein the point of care system is a wireless pen computer or laptop computer (Fig. 24, col. 6 lines 9-55, col. 13 lines 12-30).

(B) As per claim 9, Evans discloses an electronic medical records system accessible over the Internet (Fig. 24, col. 2 lines 20-45, col. 16 lines 2-20).

(C) As per claim 10, Evans discloses a system for enabling health care providers to use the point of care system to enter, access, process, analyze, and annotate data from patient records in real-time (col. 5 lines 1-28).

(D) As per claim 11, Evans discloses healthcare providers electronically accessing and annotating patient records, including x-ray images, wherein the healthcare providers

Art Unit: 3626

remotely access the patient records (Fig. 24, col. 5 lines 1-28, col. 7 lines 5-40, col. 13 lines 1-30).

***Claim Rejections - 35 USC § 101***

3. The rejection of claims 1-12 is hereby withdrawn due to the amendments filed on 24 February 2006.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (5,924,074) in view of Applicant's Background of the Invention and Hacker (6,988,075).

(A) As per claim 1, Evans discloses an electronic medical records system comprising servers (Fig. 24) having a patient data repository including a patient locator, a data manager, and a data interface (Fig. 12), wherein the patient data repository includes a relational database supporting the Open Database Connectivity (ODBC) model (considered to be "middleware"), wherein ODBC is an application program interface (API) that allows client applications running under Microsoft Windows to access data

Art Unit: 3626

from a variety of data sources, including relational and non-relational DBMS, wherein these data sources may reside on a client machine or they may be located on a remote server communicating through a network common to the client machine, wherein the clients include desktop PCs, laptop computers, and pen computers, and the client machines communicate with the servers over the Internet (Fig. 24, col. 8 line 18 to col. 9 line 37, col. 12 line 56 to col. col. 14 line 25).

Evans does not explicitly disclose a "master control file." It appears, however, that ODBC model and patient locator are a form of a master control file when viewed in light of Applicant's specification. The master control file is also well known as evidenced by Applicant's admitted prior art (see Figure 3 and pg. 3, par. 3 of Applicant's specification). In particular, Applicant's Figure 3 discloses a master control file and page 3, par. 3 describes "One way of providing a common set of medical information communications protocols, or common standards, is by an architecture which includes the use of a master control file. A master control file (or MCF) is middleware software storing information which, when read by a computer program referred to as an engine, provides an interface between an application program and the WINDOWS operating system. The master control file (or MCF) provides an open, interoperable, platform and language independent distributed (MCF) architecture. This approach has been enormously successful and has been adopted by numerous large firms around the world as the basic architecture for their complex Patient Record information systems. This infrastructure provides a great deal of power, scalability, and interoperability."

Claim 1 has been amended to include “the master control file includes access and mapping information between a database of text and image data and the medical records system, the portability enabling software arranged to maintain the database, to populate and maintain the text data, and to capture, populate, maintain, and retrieve the image data in medical record modality formats and in multi-media formats” and “the apparatus capturing the patient episode data into a secure file.”

As per these limitations, Evans discloses a patient locator creates a patient data structure having a PID and a patient's name, wherein the patient data structure includes pointers to data structures having data within a patient record captured by the point of care system and incorporated from external sources (e.g., digital x-ray image file stored in a raster pixel format), wherein the patient data structure maintains pointers to a clinical data structure, a progress note structure, and an encounter data structure, wherein the patient data record includes the PID generated by the patient locator, text data, electronic mail and word processing documents, image data, such as scanned physical documents, x-rays and CATSCANS, and audio mail, wherein the patient data repository that is ODBC compatible, includes the patient locator, and is used to capture, store, organize, and access data stored in the patient data repository, and wherein the patient data record is stored in a secure file (see password system) (Fig. 13, 14, col. 8 line 18 to col. 37, col. 15 lines 8-33, col. 16 lines 2-53)

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Applicant's Background of the Invention

Art Unit: 3626

within the system of Evans with the motivation of allowing client applications to access data from a variety of data sources (Evans; col. 14 lines 11-14).

Claim 1 has also been amended to include “the apparatus transmitting the secure file as an email attachment, retrieving the patient episode data from the secure file, and storing the patient episode data in the medical records system.”

Evans and Applicant's Background of the Invention do not expressly disclose “the apparatus transmitting the secure file as an email attachment, retrieving the patient episode data from the secure file, and storing the patient episode data in the medical records system.” However, Hacker discloses that updated information from a patient visit to the medical provider can be attached to a reply e-mail, and if necessary, translated by software on the server to update the patient medical record on the medical information database (col. 8 lines 40-45). It is respectfully submitted that Evans discloses capturing data in a secure file (see col. 15 lines 8-32). Further, it is noted that it is well known that emailing data over a network requires some form of security for the data.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Hacker within the system taught collectively by Evans of Applicant's Background of the Invention with the motivation of providing privacy for patient records (Hacker; col. 6 lines 1-10).



Art Unit: 3626

(B) As per claim 2, Evans discloses a graphical user interface running on a point of care system, such as wherein the point of care system is a wireless pen computer or laptop computer (Fig. 24, col. 6 lines 9-55, col. 13 lines 12-30).

(C) As per claim 3, Evans discloses the ODBC/ API allowing client applications to access data from a variety of data sources, wherein the client is able to store, annotate, enter, and access patient medical records stored in the patient data repository (col. 5 lines 1-28, col. 14 lines 8-25).

(D) As per claim 4, Evans discloses a data manager/ patient locator (reads on "master control file") creating a data structure having the Patient ID and the patient's name, the patient data structure includes pointers to data structures having data within a patient record captured by the point of care system (i.e., a digital x-ray image file), wherein there are multiple data structures created by the patient locator including patient data, interface files, clinical data, progress, notes (see Fig. 13), wherein within those files there are types of data (reads on "field names, attributes") (Fig. 12, col. 8 lines 29-60).

(E) As per claim 5, Evans discloses database tables having a PID and other field names (see Figure 13, Name, Drug Code, Protocol Code) used to locate data, store data, and retrieve data (Fig. 13, col. 5 lines 1-28, col. 8 line 29 to col. 9 line 37).

Art Unit: 3626

(F) As per claim 6, Evans discloses pointers to patient data structures, including databases such as the reference database, wherein the patient data structure and patient locator use the pointers to used to locate data, store data, and retrieve data (Fig. 13, col. 5 lines 1-28, col. 8 line 29 to col. 9 line 37).

(G) As per claim 7, Evans discloses pointers to image data including scan (TIF), ink (BMP), an x-ray, cat scan, or MRI, wherein the images display when the healthcare provider accesses those files using the data manager (Fig. 13-14, col. 4 line 64 to col. 5 line 27, col. 8 line 29- col. 9 line 37).

(H) As per claim 8, Evans discloses the data manager tracking the location and description of patient data, including the image data, wherein the image data is displayed upon the healthcare provider retrieving the data (Fig. 13-14, col. 4 line 64 to col. 5 line 27, col. 8 line 29- col. 9 line 37).

(I) As per claim 9, Evans discloses an electronic medical records system accessible over the Internet (Fig. 24, col. 2 lines 20-45, col. 16 lines 2-20).

(J) As per claim 10, Evans discloses a system for enabling health care providers to use the point of care system to enter, access, process, analyze, and annotate data from patient records in real-time (col. 5 lines 1-28).

Art Unit: 3626

(K) As per claim 11, Evans discloses healthcare providers electronically accessing and annotating patient records, including x-ray images, wherein the healthcare providers remotely access the patient records (Fig. 24, col. 5 lines 1-28, col. 7 lines 5-40, col. 13 lines 1-30).

(L) Claims 15-25 and 29-39 repeat the limitations of claims 1-11, and are therefore rejected for the same reasons as those claims, and incorporated herein.

6. Claim 12, 26, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (5,924,074), Applicant's Background of the Invention, and Hacker (6,988,075) as applied to claims 1, 15, and 29, and further in view of Swanson et al. (6,112,183).

(A) As per claims 12, 26, and 40, Evans fails to expressly disclose compressing, encrypting, and encapsulating patient episode data into a secure file. However, Evans discloses capturing data in a point of care system (col. 16 lines 2-20) and securing data using a tiered-password system (col. 15 lines 8-32). The Examiner respectfully submits that it is well known in the art to compress data, encrypt data, and encapsulate patient data. For example, note column 2, lines 26-31 of Swanson discussing encryption, compression, and encapsulation. At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Swanson within

Art Unit: 3626

the method of Evans with the motivation of providing superior protection of patient data (Evans; col. 15 lines 29-32).

7. Claims 13-14, 27-28, and 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (5,924,074), Applicant's Background of the Invention, Hacker (6,988,075), and Swanson et al. (6,112,183) as applied to claims 12, 26, and 40, and further in view of Haudenschild (6,665,647).

(A) As per claims 13-14, 27-28, and 41-42, Evans and Swanson fail to expressly disclose transmitting a secure file to a repository mail server, which de-encapsulates and uncompresses the secure file and stores the de-encapsulated, uncompressed secure file into a patient medical record and messages are transmitted to an assigned physician notifying the assigned physician of the receipt of the patient episode data. Haudenschild discloses sensitive data being encrypted at one end of transmission and then decrypted at the other end of transmission and messaging between parties (col. 6 lines 48-65). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Haudenschild within the apparatus of Evans and Swanson with the motivation of protecting sensitive data (Haudenschild; col. 6 lines 48-65).

### ***Response to Arguments***

Art Unit: 3626

8. Applicant's arguments with respect to claims 1-42 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Bleck whose telephone number is (571) 272-6767. The Examiner can normally be reached on Monday-Thursday, 8:00am – 5:30pm, and from 8:30am – 5:00pm on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached at (571) 272-6776.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**11. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

(571) 273-8300	[Official communications]
(571) 273-8300	[After Final communications labeled "Box AF"]
(571) 273-6767	[Informal/ Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand-delivered responses should be brought to the Knox Building, Alexandria, VA.

Application/Control Number: 09/853,703


Page 14

Art Unit: 3626

CB

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May 8, 2006

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER